

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Elihu M. Berle, Chair
Case Management Subcommittee
Hon. Arthur M. Wallace, Chair
Patrick O'Donnell, Committee Counsel, 415-865-7665,
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DATE: October 2, 2003

SUBJECT: Civil Harassment (revise forms CH-100, CH-120, and CH-140)
(Action Required)

Issue Statement

The civil harassment forms adopted by the Judicial Council need to be revised to conform to recent legislation, including Assembly Bill 2030 and Senate Bill 226. Certain changes in style and format should also be made to improve and clarify the forms.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2004:

1. Revise *Petition for Injunction Prohibiting Civil Harassment* (form CH-100),
2. Revise *Order to Show Cause (Civil Harassment) and Temporary Restraining Order* (form CH-120), and
3. Revise *Order After Hearing on Petition for Injunction Prohibiting Civil Harassment* (form CH-140)

to conform to recent legislation and to clarify certain items on the forms.

Revised forms CH-100, CH-120, and CH-140 are attached at pages 7–16.

Rationale for Recommendation

Overview

The Judicial Council's civil harassment forms need to be revised for several reasons. First, the Legislature enacted Assembly Bill 2030 in 2002. This bill amended Code of Civil Procedure section 527.6 by adding a new subdivision that requires the Judicial Council to develop an application form for petitioners to request that sheriffs or marshals serve certain specified protective orders, restraining orders, and injunctions without prepayment of service fees. The bill also amends Government Code section 6103.2 to provide that the sheriff or marshal who does not collect fees from the protected person under amended section 527.6 of the Code of Civil Procedure may bill the court that issued the protective or restraining order, or the injunction, for the cost of the service. In order to implement AB 2030, the civil harassment forms need to be revised.

Second, the Legislature this year enacted Senate Bill 226. This legislation modified Code of Civil Procedure section 527.6 (on civil harassment) and added section 527.9 (on firearms relinquishment). The civil harassment forms need to be modified to reflect this legislation.

Third, several other revisions should be made to the civil harassment forms to ensure that they are clear, accurate, and consistent with existing law.

Assembly Bill 2030 Revisions

Last year, Code of Civil Procedure section 527.6 on civil harassment was amended to add sections (p)–(q). Subdivision (p)(1) provides:

Notwithstanding any other provision of law, upon the application of the petitioner there shall be no fee for the service of process of a protective order, restraining order, or injunction to be issued, if any of the following conditions apply:

- (A) The protective order, restraining order, or injunction issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.
- (B) The protective order, restraining order, or injunction issued pursuant to this section is based upon a credible threat of violence resulting from a threat of sexual assault. As used in this subparagraph, "sexual assault" means the offenses enumerated in Section 1036.2 of the Evidence Code.
- (C) The protective order, restraining order, or injunction is issued pursuant to Section 6222 of the Family Code, unless the applicant is

eligible for a waiver of the payment of the fee for serving the order pursuant to subdivision (b) of that section.

The amendments to Code of Civil Procedure section 527.6 further provide that "[t]he Judicial Council shall prepare and develop application forms for applicants who wish to avail themselves of the services described in this subdivision." (Code Civ. Proc., § 527.6(p)(2).)

The civil harassment forms need to be revised to implement the new legislation. Under new section 527.6(p)(1) of the Code of Civil Procedure, there is to be no fee for service of the specified protective orders, temporary restraining orders, or injunctions. Persons to be protected by the orders or injunctions are entitled to service of the orders on the defendants without prepayment of service fees to sheriffs or marshals in certain circumstances. Other parts of AB 2030 indicate that this means only that the sheriff or marshal is not to charge or collect the fee from the protected person. Under Government Code section 6103.2(b)(4), the ordinary fees charged by sheriffs and marshals for service, for cancellation of service at the request of the party who originally requested service, and for preparation of a not-found return showing that service was attempted but failed, are to be billed to the court that issued the orders to be served.

The statute does not require the sheriff or marshal to waive the ultimate payment of his or her office's service fees, but instead shifts the responsibility for those fees from the protected person to the court. Hence, the application for service mentioned in Code of Civil Procedure section 527.6(p)(2) should be addressed to the court. The court should determine whether the order or injunction to be served is one that meets the definitional tests in that section. Under Code of Civil Procedure section 527.6(p)(1)(A) and (B), the orders or injunctions to which the provision for service without a fee applies include those available under the civil harassment law.¹

Accordingly, to implement AB 2030, the *Petition for Injunction Prohibiting Civil Harassment* (form CH-100) the Judicial Council should take several actions. First, it should modify the form to include a new item 19, in which the plaintiff may request service of certain orders without payment of fees.

Second, two other orders in the Civil Harassment series, *Order to Show Cause and Temporary Restraining Order* (form CH-120) and *Order After Hearing on*

¹ The new service statutes also apply to all protective orders, restraining orders, and injunctions available under Family Code section 6222, concerning domestic violence (Code Civ. Proc., § 527.6(p)(1)(C)). Unless an applicant is eligible for a fee waiver in a domestic violence case, they are entitled to free service of orders under section 527.6(p)(1)(C) of the Code of Civil Procedure.

Petition for Injunction Prohibiting Civil Harassment (form CH-140), should be modified to provide a means by which the court can order the sheriff or marshal of a specified county not to collect service fees from the protected person, but instead to bill the court for these fees. Thus, new item 13 would be added to form CH-120 and new item 12 would be added to form CH-140.

Third, to assist persons in requesting free service of orders in civil harassment and domestic violence cases, the Judicial Council should adopt new form *Request and Order for Free Service of Restraining Order* (form CH-101/DV-290). This form is described in a separate Judicial Council report submitted at the same time as this report.

Senate Bill 226 Revisions

Senate Bill 226 concerns firearms relinquishment in cases involving various types of restraining orders. Its main feature is the extension of the firearms relinquishment statutes to cover elder and dependent adult abuse protective orders. But the legislation also clarifies that these firearms provisions apply to civil harassment cases. (See amended Code of Civil Procedure section 527.6(k).) And it provides procedures for relinquishing firearms in civil harassment, workplace violence, and other cases. (See new Code of Civil Procedure section 527.9.)

Some revisions have been made to the civil harassment forms to reflect the enactment of SB 226. For example, the mandatory firearms relinquishment provisions in forms CH-120 and CH-140 have been modified to indicate that the restrained person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her possession within 48 hours after service of the order if the restrained person is not at the hearing. (See new Code of Civil Procedure section 527.9(b).)

Other Revisions to Forms

1. Form CH-100

Several other revisions should be made to form CH-100 to insure that it is clearer and consistent with Code of Civil Procedure section 527.6. For instance, items 6–9 on current form CH-100 need to be modified to track the provisions of Code of Civil Procedure section 527.6. The revised form more accurately states the statutory grounds for injunctive relief.

Second, the statement of the irreparable harm that the plaintiff will suffer unless relief is granted has been relocated from item 13 to item 9—that is, before the plaintiff's request for relief. This location is more logical. Other items have been reordered.

Third, the personal conduct orders language in item 10 has been changed to state that the defendant must not "communicate by any means (including mail, fax, or e-mail)" instead of "send any messages to." This more detailed language is based on Code of Civil Procedure section 527.6(b)(3).

Fourth, headings have been added to items 15–20 to make the petition easier to understand and complete.

Fifth, as mentioned above, item 19 has been added to enable the plaintiff to make the proper allegations under AB 2030 to request that the sheriff or marshal serve the court's orders without prepayment of any fee.

Finally, the title of the form has been changed to include the word "Civil" before "Harassment."

2. Forms CH-120 and CH-140

Order to Show Cause and Temporary Restraining Order (form CH-120) has been modified in several respects. Larger boxes have been provided in item 4 for the names of the parties and protected persons. In item 5, the words "communicate by any means (including mail, fax, or e-mail)" have replaced "send any messages to." Headings have been included in items 9–13 to make them easier to understand and complete.

Similar modifications have been made to the *Order After Hearing on Petition for Injunction Prohibiting Civil Harassment* (form CH-140). Also, the word "Civil" has been added to the title of this form.

Alternative Actions Considered

Because the recent legislation requires most of the revisions, no alternatives were considered to revising the forms.

Comments From Interested Parties

Eleven public comments were received on this forms proposal.² The commentators included the State Bar's Committee on the Administration of Justice, a superior court rules committee, a local bar association, the California Center for Law and the Deaf, several court executives, two attorneys at the California Department of Justice, and a police sergeant. The commentators generally supported the revisions and offered suggestions for clarifying or improving the forms.

² A chart summarizing the comments and the committee's responses is attached at pages 17–26.

Most of the commentators' suggestions were technical or stylistic. As the comment chart indicates, the committee agreed with many of the commentator's suggestions and modified the forms accordingly.

Implementation Requirements and Costs

The courts will need to make copies of the revised forms available to the public. Because parties and the courts in civil harassment cases need to have accurate, current forms available, the incidental costs incurred in providing the revised forms are necessary.

Attachment

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and State Bar number, if attorney):</i> ADDRESS WHERE YOU WANT MAIL SENT: <hr/> TELEPHONE NUMBER <i>(Optional):</i> _____ FAX NUMBER <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	CASE NUMBER:
PETITION FOR INJUNCTION PROHIBITING CIVIL HARASSMENT <input type="checkbox"/> Application for Temporary Restraining Order	JUDGE: DEPT.:

Read the Instructions for Lawsuits to Prohibit Civil Harassment (form CH-150) before completing this form.

1. Plaintiff *(name each)*:

2. ☐ OTHER PERSONS TO BE PROTECTED *(List names and ages of any family or household members who reside with plaintiff for whom protection is sought in the requested orders and their relationship to plaintiff):*

Name

Age

Relationship to Plaintiff

3. a. Defendant *(name)*:

Sex: ☐ M ☐ F Ht.: ____ Wt.: ____ Hair Color: ____ Eye Color: ____ Race: ____ Age: ____ Date of Birth: ____

b. Defendant's residence address *(if known)*:

c. Defendant's work address and name of business *(if known)*:

4. This action is filed in this county because *(check all that apply)*:

- a. ☐ defendant resides in this county.
 b. ☐ defendant has caused physical or emotional injury to plaintiff in this county.
 c. ☐ other *(specify)*:

5. Describe whether plaintiff knows defendant and, if so, how (for example, as a landlord, tenant, neighbor, etc.):

(This is not a Court Order)

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

6. Defendant has *(check all that apply)*:

- a. ☐ committed acts of violence against plaintiff as described in item 8.
- b. ☐ threatened to commit acts of violence against plaintiff as described in item 8.
- c. ☐ engaged in a course of conduct directed at plaintiff as described in item 8. Plaintiff has suffered substantial emotional distress as a direct result of defendant's conduct described in item 8, and defendant's conduct would have caused a reasonable person to suffer substantial emotional distress.

7. Defendant's acts or conduct have seriously alarmed, annoyed, or harassed plaintiff as described in item 8, and serve no legitimate purpose.

8. **DESCRIPTION OF CONDUCT**

Describe in detail the harassment *(including the dates, who did what to whom, and any injuries)*:

☐ *(If more space is needed, check the box and add additional pages as Attachment 8.)*

9. ☐ Plaintiff will suffer great and irreparable harm before this petition can be heard in court, unless the court makes the temporary orders requested below *(specify the harm and why it will occur before the hearing)*:

☐ *(If more space is needed, check the box and add additional pages as Attachment 9.)*

PLAINTIFF REQUESTS THE COURT TO MAKE THE ORDERS INDICATED BY THE CHECK MARKS IN THE BOXES BELOW.

10. ☐ **PERSONAL CONDUCT ORDERS** ☐ **To be ordered now and remain in effect until the hearing**
 Defendant must not contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, communicate by any means (including mail, fax, or e-mail), stalk, destroy any personal property, disturb the peace, keep under surveillance, or block movements in public places or thoroughfares, or otherwise harass plaintiff ☐ and the other protected persons identified in item 2.

(This is not a Court Order)

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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11. ☐ **STAY-AWAY ORDERS** ☐ **To be ordered now and remain in effect until the hearing**

a. Defendant must stay at least (specify): _____ yards away from the following persons and places (the addresses of the places are optional, and you do not have to reveal them):

(1) Plaintiff ☐ and the other protected persons identified in item 2.

(2) ☐ Plaintiff's residence (address optional):

(3) ☐ Plaintiff's place of work (address optional):

(4) ☐ Plaintiff's children's school or place of child care (address optional):

(5) ☐ Plaintiff's vehicle (specify):

(6) ☐ Other (specify):

b. Granting any of the stay-away orders

(1) ☐ will **not** interfere with defendant's access to defendant's residence or place of employment.

(2) ☐ will interfere with defendant's access to defendant's residence or place of employment (explain):

12. ☐ The other protected persons (identified in item 2) should be included in the orders because:

13. ☐ **ATTORNEY FEES AND COSTS**

Plaintiff requests that defendant be ordered to pay plaintiff's attorney fees and costs as follows (specify):

14. ☐ **OTHER ORDERS** (specify other orders you are requesting):

15. **SERVICE OF ORDERS ON LAW ENFORCEMENT.** Plaintiff requests that copies of orders be given to the law enforcement agencies listed below by:

a. ☐ plaintiff

b. ☐ plaintiff's attorney

Law Enforcement Agency

Address

(This is not a Court Order)

PLAINTIFF (Name): _____ DEFENDANT (Name): _____	CASE NUMBER: _____
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16. PREVIOUS RESTRAINING ORDERS

- a. ☐ Plaintiff has asked for restraining orders against the defendant before (*specify date, county, court, and case number if known*): _____
- b. ☐ Defendant has asked for restraining orders against plaintiff before (*specify date, county, court, and case number if known*): _____

17. ORDER SHORTENING TIME FOR SERVICE

- ☐ Plaintiff requests that time for service of the **Order to Show Cause** and accompanying papers be shortened so that they may be served no less than (*specify number*): _____ days before the date set for the hearing. The order shortening time is needed because of the facts contained in this petition. (*Add additional facts if necessary*): _____

18. NO FEE FOR FILING OF PETITION

- ☐ Plaintiff is not required to pay a fee for filing this petition because the petition alleges that the defendant has inflicted or threatened violence against the plaintiff, or stalked the plaintiff, or acted or spoken in any other manner that has placed the plaintiff in reasonable fear of violence, and seeks a protective or restraining order or injunction restraining stalking, future violence, or threats of violence under Code of Civil Procedure section 527.6.

19. NO FEE FOR SERVICE OF ORDER

- ☐ Plaintiff requests that the sheriff or marshal serve the protective orders, restraining orders, or injunction requested in this petition on the defendant without prepayment of any fee under Government Code section 6103.2. This request is made because the orders or injunction are
- a. ☐ based upon stalking as defined in Penal Code section 646.9.
- b. ☐ based upon a credible threat of violence resulting from a threat of sexual assault under Code of Civil Procedure section 527.6(p)(1).

(To obtain service by the sheriff or marshal without payment of fees, complete and file Request and Order for Free Service of Restraining Order (form CH-101), and, if eligible for a fee waiver, complete and file Application for Waiver of Court Fees and Costs (form 982(a)(17).)

20. ADDITIONAL RELIEF

Plaintiff requests additional relief as may be proper.

21. Number of pages attached: _____

(If the plaintiff is represented by an attorney, the attorney's signature follows):

Date: _____

_____ (TYPE OR PRINT NAME)	<div style="text-align: right;">▶</div> _____ (SIGNATURE OF ATTORNEY)
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

_____ (TYPE OR PRINT NAME)	<div style="text-align: right;">▶</div> _____ (SIGNATURE OF PLAINTIFF)
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_____ (TYPE OR PRINT NAME)	<div style="text-align: right;">▶</div> _____ (SIGNATURE OF PLAINTIFF)
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(This is not a Court Order)

1. **To defendant (*name*):**
2. **A court hearing has been set at the time and place indicated below:**

Date:	Time:	Dept.:	Room:
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TEMPORARY RESTRAINING ORDER

4. a. The defendant is (*name*):

Sex: ☐ M ☐ F Ht.: ____ Wt.: ____ Hair Color: ____ Eye Color: ____ Race: ____ Age: ____ Date of Birth: ____

b. The protected person is (*name*):

Sex: ☐ M ☐ F Date of Birth (*optional*): ____

c. Protected family or household members who reside with the protected person:

(1) (*Name*):

Sex: ☐ M ☐ F Date of Birth (*optional*): ____

(2) (*Name*):

Sex: ☐ M ☐ F Date of Birth (*optional*): ____

(3) (*Name*):

Sex: ☐ M ☐ F Date of Birth (*optional*): ____

Form Adopted for Mandatory Use
Judicial Council of California
CH-120 [Rev. January 1, 2004]

**ORDER TO SHOW CAUSE AND
TEMPORARY RESTRAINING ORDER (CLETS)
(Civil Harassment)**

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

5. **UNTIL THE TIME OF HEARING, THE COURT ORDERS** that the restrained person must **not** do the following things to the protected person ☐ and to the other protected persons listed in item 4c:
- a. ☐ harass, molest, attack, strike, threaten, sexually assault, batter, follow, stalk, destroy the personal property of, disturb the peace of, keep under surveillance, or block movements in public places or thoroughfares.
 - b. ☐ contact, telephone, or communicate by any means (including mail, fax, or e-mail) ☐ except for peaceful written contact through a process server or other person for legal papers related to a court case.

6. **UNTIL THE TIME OF THE HEARING, THE COURT ORDERS** that the restrained person **must** stay at least **(specify):** _____ yards away from the following protected persons and places:

(The addresses of these places are optional; you do not have to provide them.)

- (1) ☐ Person seeking the order
- (2) ☐ The other persons listed in item 4c
- (3) ☐ Residence of person seeking the order
- (4) ☐ Place of work of person seeking the order
- (5) ☐ The children's school or place of child care
- (6) ☐ The protected persons' vehicles
- (7) ☐ Other *(specify)*:

7. ☐ **OTHER ORDERS** *(specify)*:

8. **MANDATORY FIREARM RELINQUISHMENT**

The restrained person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control within

- a. ☐ 24 hours after issuance of this order (if restrained person is present at hearing).
- b. ☐ 48 hours after service of this order (if restrained person is not present at hearing).
- c. ☐ other *(specify)*:

The restrained person shall file a receipt with the court showing compliance with this order within 72 hours of receiving this order.

9. **SERVICE OF ORDER ON LAW ENFORCEMENT**

By the close of business on the date of this order, a copy of this order and any proof of service shall be delivered to the law enforcement agencies listed below by:

- a. ☐ plaintiff
- b. ☐ plaintiff's attorney:

Law Enforcement Agency

Address

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

10. SERVICE ON DEFENDANT

- a. The following documents **must be personally served** on the defendant:
- (1) *Order to Show Cause and Temporary Restraining Order (Harassment)* (form CH-120)
 - (2) *Petition for Injunction Prohibiting Civil Harassment* (form CH-100)
 - (3) *Blank Response to Petition for Injunction Prohibiting Harassment* (form CH-110)
 - (4) *Instructions for Lawsuits to Prohibit Harassment* (form CH-150)
 - (5) Other (specify):
- b. Proof of service of the documents must be served and filed with the court before the hearing.

11. ORDER SHORTENING TIME

- ☐ Application for an order shortening time is granted and the documents listed in item 9 must **be personally served** on the defendant no fewer than (specify number): _____ days before the time set for hearing.

12. NO FEE FOR FILING

- ☐ Filing fees for the filing of this action are waived under Code of Civil Procedure section 527.6(o).

13. NO FEE FOR SERVICE OF ORDER

- a. ☐ The sheriff or marshal shall serve this order on the defendant without requiring plaintiff to pay any fee.
- (1) ☐ Plaintiff qualifies for a fee waiver. Law enforcement shall serve the order without charging a fee.
- or-
- (2) ☐ The plaintiff has not qualified for a fee waiver, but the sheriff or marshal shall serve this order without prepayment of fee under Government Code section 6103.2.

Date: _____

JUDICIAL OFFICER

This order is effective when made. It is enforceable in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this restraining order are subject to criminal penalties.

NOTICE REGARDING FIREARMS

Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment.

[SEAL]

CLERK'S CERTIFICATE

I certify that the foregoing *Order to Show Cause (Civil Harassment)* and *Temporary Restraining Order (CLETS) (Civil Harassment)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

- | | | | |
|-------|-------|--------|-------|
| Date: | Time: | Dept.: | Room: |
|-------|-------|--------|-------|

- ## THE COURT FINDS

5. a. The defendant is (*name*):

Sex: ☐ M ☐ F Ht.: ____ Wt.: ____ Hair Color: ____ Eye Color: ____ Race: ____ Age: ____ Date of Birth: ____

b. The protected person is (*name*):

Sex: ☐ M ☐ F Date of Birth (*optional*): ____

c. Protected family or household members who reside with the protected person are:

(1) (*Name*):

Sex: ☐ M ☐ F Date of Birth (*optional*): ____

(2) (*Name*):

Sex: ☐ M ☐ F Date of Birth (*optional*): ____

(3) (*Name*):

Sex: ☐ M ☐ F Date of Birth (*optional*): ____

Form Adopted for Mandatory Use
Judicial Council of California
CH-140 [Rev. January 1, 2004]

**ORDER AFTER HEARING ON PETITION FOR
INJUNCTION PROHIBITING CIVIL HARASSMENT (CLETS)**

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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6. After the hearing on the petition, **IT IS ORDERED THAT DEFENDANT**

- a. **shall not** contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, communicate by any means (including mail, fax, or e-mail), follow, stalk, destroy the personal property of, disturb the peace of, keep under surveillance, or block movements in public places or thoroughfares of

☐ the person seeking the order and ☐ the other protected persons listed in item 5c.

- b. ☐ **shall** stay at least (*specify*): _____ yards away from the following protected persons and places:

- (1) ☐ Person seeking the order
- (2) ☐ The other protected persons listed in item 5c
- (3) ☐ Residence of person seeking the order
- (4) ☐ Place of work of person seeking the order
- (5) ☐ The children's school or place of child care
- (6) ☐ The protected persons' vehicles
- (7) ☐ Other (*specify*):

7. ☐ **OTHER ORDERS** (*specify*):

8. **MANDATORY FIREARM RELINQUISHMENT**

The restrained person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control within

- a. ☐ 24 hours after issuance of this order (if restrained person is present at hearing).
- b. ☐ 48 hours after service of this order (if restrained person is not present at hearing).
- c. ☐ other (*specify*):

The restrained person shall file a receipt with the court showing compliance with this order within 72 hours of receiving this order.

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

9. SERVICE OF ORDER ON LAW ENFORCEMENT

By the close of business on the date of this order, a copy of this order and any proof of service shall be delivered to the law enforcement agencies listed below by:

- a. ☐ plaintiff
b. ☐ plaintiff's attorney:

Law Enforcement Agency

Address

10. SERVICE OF ORDER ON DEFENDANT

Plaintiff must cause a copy of this order to be served on the defendant.

11. NO FEE FOR SERVICE OF ORDER

- ☐ The sheriff or marshal shall serve this order on the defendant without requiring plaintiff to pay any fee.
(a) ☐ Plaintiff qualifies for a fee waiver. Law enforcement shall serve the order without charging a fee.

-or-

- (b) ☐ The plaintiff has not qualified for a fee waiver, but the sheriff or marshal shall serve this order without prepayment of fee, under Government Code section 6103.2.

Date: _____ JUDICIAL OFFICER

This order is effective when made. It is enforceable anywhere in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this restraining order are subject to criminal penalties.

NOTICE REGARDING FIREARMS

Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment.

[SEAL]

CLERK'S CERTIFICATE

I certify that the foregoing *Order After Hearing on Petition for Injunction Prohibiting Civil Harassment (CLETS)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

SPR03-19
Civil Harassment
(revise forms CH-100, CH-120, and CH-140)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Mia A. Baker, Chair State Bar Standing Committee on the Delivery of Legal Services State Bar of California San Francisco, California	A	Y	<p>Many of the proposed changes bring the wording of the forms in line with recently enacted legislation. There are some changes to the design and layout of the forms, and our reviewers approved of these wholeheartedly, finding the proposed forms much easier to follow. The reorganization of some sections seems much more logical, and the reviewers especially approved of moving the declaration to the end of the Petition.</p> <p>Our reviewers recommend endorsement without reservation and offer congratulations on a job well done.</p>	The committee notes the Standing Committee on the Delivery of Legal Services' support for the proposed revisions to the forms.
2.	Hon. Ronald L. Bauer Rules and Forms Committee Superior Court of California, County of Orange	AM	Y	<p>The Rules and Forms Committee of the Orange County Superior Court reviewed this item at their meeting of June 19, 2003, and agree with the following comments submitted by the managers of Civil and Family Law Operations, and Judge Charles Margines and Commissioner Barry S. Michaelson, members of the Rules and Forms Committee.</p> <p><u>Form CH-100:</u></p> <p>1. Correct first line to add "Name" – (<i>Name and state bar number of attorney.</i>)</p> <p>2. Item 4 – Add "<i>(check all boxes)</i>" after the first line.</p> <p>3. Item 6 – Add "<i>(check all boxes that apply)</i>" after the first line.</p>	<p>Agreed. "Name" has been included inside the parentheses.</p> <p>"<i>(check all that apply):</i>" has been added.</p> <p>"<i>(check all that apply):</i>" has been added.</p>

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SPR03-19
Civil Harassment
(revise forms CH-100, CH-120, and CH-140)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>4. Item 16a-b – Change the ending of the sentence to read "<i>(specify date, county, court and case number if known).</i>"</p> <p>5. Item 18 – Change the ending of line 3 and 4 to read "...seeks a protective or restraining order or injunction restraining stalking, future violence, or threats of violence..."</p> <p>6. Item 19a – Change to Penal Code section 646.9.</p> <p>7. Item 19b – Change to read "based upon a credible threat of violence resulting from a threat of sexual assault under C.C.P. section 527(p)(1)."</p> <p>8. Bottom of page 4 of 6 – Attorney signature should be below the plaintiff's signature.</p> <p><u>Form CH-120:</u> 1. The form should reflect (in bold) that service is mandatory and a proof of service is needed prior to the hearing.</p> <p>2. Item 8a should be deleted. If the person is present, he or she will be served.</p>	<p>Agreed. This information is more complete.</p> <p>Agreed. This is more accurate.</p> <p>Agreed. The code reference should be corrected.</p> <p>Agreed. This reference is clearer.</p> <p>Disagreed. The plaintiff's signature belongs below the line stating that this is a declaration. The signature of the attorney, who is not making a declaration, belongs above the line.</p> <p>Item 10 has been modified to cover these matters.</p> <p>Disagreed. Even if the person is served, he or she should be notified by the order that</p>

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SPR03-19
Civil Harassment
(revise forms CH-100, CH-120, and CH-140)

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				<p><u>Form CH-140:</u> 1. Item 9a should be deleted. If the person is present, he or she will be served with the order.</p>	<p>firearms must be relinquished within 24 hours.</p> <p>Disagreed. Even if the person is served, he or she should be notified by the order that firearms must be relinquished within 24 hours.</p>
3.	Committee on the Administration of Justice State Bar of California San Francisco, California	A	Y	The Committee on the Administration of Justice supports this proposal.	No response required.
4.	Ms. Valerie Fercho-Tillery Domestic Violence Restraining Order System Department of Justice State of California Sacramento, California	AM	N	<p><u>CH-100 – Petition for Injunction Prohibiting Harassment (form CH-100):</u></p> <p>Place the statement, "This is not a Court Order" on every page in the same location on the petition (similar on form DV-100 where it appears at the bottom of each page of the request).</p> <p><u>CH-120 Order to Show Cause and Temporary Restraining Order (Civil Harassment) (form CH-120):</u></p> <p>Family Code 6380(i) states, "Only protective and restraining orders issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice shall be transmitted to the Department of Justice." The CH-120 has (in the past) been adopted by the Judicial</p>	<p>Agreed. This will clarify that the petition is not an order.</p> <p>Form CH-100 is required by statute to be mandatory (See C.C.P. 527.6(1).) The order form (CH-120) has not been mandatory in the past because orders generally are not mandatory. However, like the Domestic Violence order, this order will be made</p>

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SPR03-19
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				<p>Council for 'optional' use. Why not mandatory? Form CH-100 is mandatory.</p> <p>The Department of Justice (DOJ) has not approved this form; therefore, it should not be entered into the statewide registry. We will be happy to work with the Judicial Council to approve a version of the CH-120 in order to bring this form into compliance with state statutes and DVROS requirements.</p> <p>Place the statement, "This is a Court Order" on every page in the same location on the order, preferably near the bottom of the order.</p> <p>Items 4b and 4c: Consider making 'optional' the date of birth or age for the protected persons. This information is great for identification purposes for law enforcement, but it may be unsafe for the plaintiff to provide this information on a public document. If the plaintiff is required to provide personal identifiers, the defendant may be able to retrieve additional personal data on the plaintiff. We recommend having date of birth or age, sex, and race as optional information on the order. Create a form similar to the proposed DV-260 to gather confidential CLETS information.</p> <p>Item 4c: The box labeled, "Continued on Attachment 4c." Add language that clarifies additional persons to be</p>	<p>mandatory.</p> <p>The revised order has subsequently been sent to the Department of Justice and been approved.</p> <p>Disagreed. It is clear from the caption and footer that this is an order.</p> <p>Agreed.</p> <p>The committee will consider this proposal.</p> <p>Agreed. The text after the box has been revised to state: "Additional protected persons are listed on a separate page</p>

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SPR03-19
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				<p>protected by this order can be listed on a separate sheet of paper labeled Attachment 4c.</p> <p>Item 8: There is a statement on this order to file a receipt with the court showing compliance with the firearm relinquishment. Is there a Judicial Council form for this? If not, we suggest creating a form similar to the DV-800/JV-252.</p> <p><u>CH-140–Order After Hearing on Petition for Injunction Prohibiting Harassment:</u> Family Code 6480(i) states, "Only protective and restraining orders issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice shall be transmitted to the Department of Justice." The CH-140 has (in the past) been adopted by the Judicial Council for 'optional' use. Why not mandatory? The CH-100 is mandatory.</p> <p>The Department of Justice (DOJ) has not approved this form; therefore, it should not be entered into the statewide registry. We will be happy to work with the Judicial Council to approve a version of the CH-140 in order to bring this form into compliance with state statutes and DVROS requirements.</p>	<p>designated as Attachment 4c."</p> <p>There is no current form for this purpose. The committee will consider the proposal to develop a form.</p> <p>The form has not been mandatory because orders are not generally mandatory. Form CH-100 is required by statute to be mandatory (see C.C.P. 527.6(e).) However, like the Domestic Violence orders, this order (form CH-140) will be made mandatory.</p> <p>The revised order has subsequently been sent to the Department of Justice and has been approved.</p>

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SPR03-19
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				<p>Add the word "Civil" Harassment to the order for consistency with the CH-100 and CH-120.</p> <p>Place the statement, "This is a Court Order" on every page in the same location on the order. Preferably near the bottom of the order.</p> <p>Items 5b and c: Consider making "optional" the date of birth or age for the protected person(s). This information is great for identification purposes for law enforcement, but it may be unsafe for the plaintiff to provide this information on a public document. If the plaintiff is required to provide personal identifiers, the defendant may be able to retrieve additional personal data on the plaintiff. We recommend having date of birth or age, sex, and race as optional information on the order. Create a form similar to the proposed DV-260 to gather confidential CLETS information.</p> <p>Item 5c: The box labeled, "Continued on Attachment 5c." Add language that clarifies additional persons to be protected by this order can be listed on a separate sheet of paper labeled Attachment 5c.</p> <p>Item 9: There is a statement on this order to file a receipt with the court showing compliance with the firearm relinquishment. Is there a Judicial Council form for</p>	<p>Agreed.</p> <p>Disagreed. This is not necessary because the title "Order..." appears prominently in the caption and footer.</p> <p>Agreed.</p> <p>Agreed. The text after the box has been revised to state: "Additional protected persons are listed on a separate page designated as Attachment 5c."</p> <p>The committee will consider developing such a form.</p>

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SPR03-19
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				this? If not, we suggest creating a form similar to the DV-800/JV-252.	
5.	Mr. Robert Gerard President Orange County Bar Association	A	Y	Agrees with proposed changes, without specific comments.	No response required.
6.	Ms. Peggy Kelly California Department of Justice Sacramento, California	AM	N	(See comment from Valerie Fercho-Tillery.)	(See response to comment from Valerie Fercho-Tillery.)
7.	Mr. J. Kendrick Kresse Executive Director California Center for Law and the Deaf	AM	Y	<p>With respect to the courts, our program focuses on access for deaf and hard-of-hearing users, identifying problems, providing resources and advocating for improved court services. We also have represented individuals in complaining to the courts or filing complaints against the courts for alleged violations of federal or state law regarding access requirements.</p> <p>One of the big issues with respect to court access is providing notice to users of courts regarding their access rights and how to request accommodations from the courts. Generally, there has been insufficient notice regarding this, both in signage at the courts and in court forms and materials available to the public. There has been improvement in the last few years, but more needs to be done.</p> <p>We submitted comments on last year's proposed changes, specifically recommending that a notice of the availability of accommodations be included on</p>	<p>A special work group has been formed and is developing recommendations for a comprehensive policy on whether forms</p>

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SPR03-19
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				<p>various forms. Mr. Kenneth Kann responded to these comments last November informing me that a special working group was to be appointed to "develop recommendations for a comprehensive policy on whether Judicial Council forms should include" such notice. Hopefully, such a working group has been appointed. Whether or not, the years are ticking by and new and amended forms are being adopted annually that are not fully meeting the need for notice.</p> <p>We, therefore, will again make specific recommendations or comments regarding the Spring 2003 proposals.</p> <p>1. SPR03-19 At the very least, CH-150 Instructions for Lawsuits to Prohibit Harassment, should include such a notice. However, it does not and is not being revised. Therefore, revised CH-120 should have such a notice.</p>	<p>should include such notices or notices should be provided to accompany forms.</p> <p>When the <i>Instructions</i> are revised, the notice will be included.</p>
8.	Mr. Stephen V. Love Executive Officer Superior Court of California, County of San Diego	AM	N	<p><u>Petition for Injunction Prohibiting Harassment (form CH-100):</u></p> <p>Item 15 should have a check off box with the following:</p> <p><input type="checkbox"/> Plaintiff shall deliver <input type="checkbox"/> Plaintiff's attorney shall deliver <input type="checkbox"/> The clerk of the court shall deliver</p> <p><u>Order After Hearing (CH-140):</u> – Item 4a. Add 2</p>	<p>Agreed. This has been added.</p> <p>These additional boxes are not necessary.</p>

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SPR03-19
Civil Harassment
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				<p>more defendant boxes for plaintiff present in propria persona and defendant present in propria persona.</p> <p>Item 8. Mandatory Firearm Relinquishment—add the same language as item 7 on the form CH-120 – "The restrained person shall file a receipt with the court showing compliance with this order within 72 hours of receiving this order."</p>	<p>Boxes for “plaintiff present” and “defendant present” are sufficient.</p> <p>Agreed.</p>
9.	Ms. Sandra Mason Director of Civil Operations	A	N	<p><u>Form CH-100:</u></p> <p>Emphasize that item 3a needs to be completed so that law enforcement can enforce the restraining order.</p>	<p>This point can be added in the <i>Instructions</i> when they are revised.</p>
10.	Terry L. Oden Court Operations Manager Superior Court of California, County of Sonoma	AM	N	<p>Form CH-120 at item 9 and form CH-140 at item 10 need to be revised to eliminate the check box option for "the clerk of the court" to serve law enforcement agencies with copies of the orders. Code of Civil Procedure 527.6(h) is very specific that the plaintiff or the plaintiff's attorney is to be ordered to deliver the copies of the orders.</p> <p>The reason the search provisions are different is the domestic violence restraining orders are governed by Family Code section 6384, but there is not comparable provision for civil harassment orders.</p>	<p>Agreed.</p>
11.	Sergeant Michael Torres Sergeant Los Angeles County Sheriff's Department	AM	N	<p>Modify the section concerning service on the defendant of an <i>Order After Hearing On Petition For Injunction Prohibiting Harassment</i>, (form CH-140) to mirror the <i>Restraining Order After Hearing (Domestic Violence)</i> (form DV-130). . . .</p>	<p>Disagreed. The law governing service is different. Whereas service of domestic violence restraining orders is governed by Family Code section 6384, no comparable statute provides for service for civil harassment orders.</p>

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				Clarify the fee waiver for service by the sheriff. The analysis [in the Invitation to Comment] states the prepayment fee maybe waived for stalking and sexual assault in civil harassment codes. However, [it] also states that there is no fee for service of “similar orders under 6222 Family Code prohibiting domestic violence.”	The two statutory provisions are not inconsistent. New form CH-101/DV-290 will be available for persons requesting service of orders without payment of fees in both domestic violence cases and civil harassment cases involving stalking or a credible threat of violence resulting from a threat of sexual assault.

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